



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1543

Introduced 2/22/2007, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Allows a deduction from federal adjusted gross income, in arriving at base income for Illinois income tax purposes, of an amount equal to earnings in a special needs trust, to the extent included in adjusted gross income. Defines "special needs trust" as a trust that is not liable to pay or reimburse the State or any public agency for financial aid or services to the individual, as provided in the Trusts and Trustees Act. Effective immediately.

LRB095 10359 BDD 30574 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 203 as follows:

6 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

7 Sec. 203. Base income defined.

8 (a) Individuals.

9 (1) In general. In the case of an individual, base
10 income means an amount equal to the taxpayer's adjusted
11 gross income for the taxable year as modified by paragraph
12 (2).

13 (2) Modifications. The adjusted gross income referred
14 to in paragraph (1) shall be modified by adding thereto the
15 sum of the following amounts:

16 (A) An amount equal to all amounts paid or accrued
17 to the taxpayer as interest or dividends during the
18 taxable year to the extent excluded from gross income
19 in the computation of adjusted gross income, except
20 stock dividends of qualified public utilities
21 described in Section 305(e) of the Internal Revenue
22 Code;

23 (B) An amount equal to the amount of tax imposed by

1 this Act to the extent deducted from gross income in
2 the computation of adjusted gross income for the
3 taxable year;

4 (C) An amount equal to the amount received during
5 the taxable year as a recovery or refund of real
6 property taxes paid with respect to the taxpayer's
7 principal residence under the Revenue Act of 1939 and
8 for which a deduction was previously taken under
9 subparagraph (L) of this paragraph (2) prior to July 1,
10 1991, the retrospective application date of Article 4
11 of Public Act 87-17. In the case of multi-unit or
12 multi-use structures and farm dwellings, the taxes on
13 the taxpayer's principal residence shall be that
14 portion of the total taxes for the entire property
15 which is attributable to such principal residence;

16 (D) An amount equal to the amount of the capital
17 gain deduction allowable under the Internal Revenue
18 Code, to the extent deducted from gross income in the
19 computation of adjusted gross income;

20 (D-5) An amount, to the extent not included in
21 adjusted gross income, equal to the amount of money
22 withdrawn by the taxpayer in the taxable year from a
23 medical care savings account and the interest earned on
24 the account in the taxable year of a withdrawal
25 pursuant to subsection (b) of Section 20 of the Medical
26 Care Savings Account Act or subsection (b) of Section

1 20 of the Medical Care Savings Account Act of 2000;

2 (D-10) For taxable years ending after December 31,
3 1997, an amount equal to any eligible remediation costs
4 that the individual deducted in computing adjusted
5 gross income and for which the individual claims a
6 credit under subsection (l) of Section 201;

7 (D-15) For taxable years 2001 and thereafter, an
8 amount equal to the bonus depreciation deduction taken
9 on the taxpayer's federal income tax return for the
10 taxable year under subsection (k) of Section 168 of the
11 Internal Revenue Code;

12 (D-16) If the taxpayer sells, transfers, abandons,
13 or otherwise disposes of property for which the
14 taxpayer was required in any taxable year to make an
15 addition modification under subparagraph (D-15), then
16 an amount equal to the aggregate amount of the
17 deductions taken in all taxable years under
18 subparagraph (Z) with respect to that property.

19 If the taxpayer continues to own property through
20 the last day of the last tax year for which the
21 taxpayer may claim a depreciation deduction for
22 federal income tax purposes and for which the taxpayer
23 was allowed in any taxable year to make a subtraction
24 modification under subparagraph (Z), then an amount
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

1 modification under this subparagraph only once with
2 respect to any one piece of property;

3 (D-17) For taxable years ending on or after
4 December 31, 2004, an amount equal to the amount
5 otherwise allowed as a deduction in computing base
6 income for interest paid, accrued, or incurred,
7 directly or indirectly, to a foreign person who would
8 be a member of the same unitary business group but for
9 the fact that foreign person's business activity
10 outside the United States is 80% or more of the foreign
11 person's total business activity. The addition
12 modification required by this subparagraph shall be
13 reduced to the extent that dividends were included in
14 base income of the unitary group for the same taxable
15 year and received by the taxpayer or by a member of the
16 taxpayer's unitary business group (including amounts
17 included in gross income under Sections 951 through 964
18 of the Internal Revenue Code and amounts included in
19 gross income under Section 78 of the Internal Revenue
20 Code) with respect to the stock of the same person to
21 whom the interest was paid, accrued, or incurred.

22 This paragraph shall not apply to the following:

23 (i) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person who is subject in a foreign country or
26 state, other than a state which requires mandatory

1 unitary reporting, to a tax on or measured by net
2 income with respect to such interest; or

3 (ii) an item of interest paid, accrued, or
4 incurred, directly or indirectly, to a foreign
5 person if the taxpayer can establish, based on a
6 preponderance of the evidence, both of the
7 following:

8 (a) the foreign person, during the same
9 taxable year, paid, accrued, or incurred, the
10 interest to a person that is not a related
11 member, and

12 (b) the transaction giving rise to the
13 interest expense between the taxpayer and the
14 foreign person did not have as a principal
15 purpose the avoidance of Illinois income tax,
16 and is paid pursuant to a contract or agreement
17 that reflects an arm's-length interest rate
18 and terms; or

19 (iii) the taxpayer can establish, based on
20 clear and convincing evidence, that the interest
21 paid, accrued, or incurred relates to a contract or
22 agreement entered into at arm's-length rates and
23 terms and the principal purpose for the payment is
24 not federal or Illinois tax avoidance; or

25 (iv) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a foreign

1 person if the taxpayer establishes by clear and
2 convincing evidence that the adjustments are
3 unreasonable; or if the taxpayer and the Director
4 agree in writing to the application or use of an
5 alternative method of apportionment under Section
6 304(f).

7 Nothing in this subsection shall preclude the
8 Director from making any other adjustment
9 otherwise allowed under Section 404 of this Act for
10 any tax year beginning after the effective date of
11 this amendment provided such adjustment is made
12 pursuant to regulation adopted by the Department
13 and such regulations provide methods and standards
14 by which the Department will utilize its authority
15 under Section 404 of this Act;

16 (D-18) For taxable years ending on or after
17 December 31, 2004, an amount equal to the amount of
18 intangible expenses and costs otherwise allowed as a
19 deduction in computing base income, and that were paid,
20 accrued, or incurred, directly or indirectly, to a
21 foreign person who would be a member of the same
22 unitary business group but for the fact that the
23 foreign person's business activity outside the United
24 States is 80% or more of that person's total business
25 activity. The addition modification required by this
26 subparagraph shall be reduced to the extent that

1 dividends were included in base income of the unitary
2 group for the same taxable year and received by the
3 taxpayer or by a member of the taxpayer's unitary
4 business group (including amounts included in gross
5 income under Sections 951 through 964 of the Internal
6 Revenue Code and amounts included in gross income under
7 Section 78 of the Internal Revenue Code) with respect
8 to the stock of the same person to whom the intangible
9 expenses and costs were directly or indirectly paid,
10 incurred, or accrued. The preceding sentence does not
11 apply to the extent that the same dividends caused a
12 reduction to the addition modification required under
13 Section 203(a)(2)(D-17) of this Act. As used in this
14 subparagraph, the term "intangible expenses and costs"
15 includes (1) expenses, losses, and costs for, or
16 related to, the direct or indirect acquisition, use,
17 maintenance or management, ownership, sale, exchange,
18 or any other disposition of intangible property; (2)
19 losses incurred, directly or indirectly, from
20 factoring transactions or discounting transactions;
21 (3) royalty, patent, technical, and copyright fees;
22 (4) licensing fees; and (5) other similar expenses and
23 costs. For purposes of this subparagraph, "intangible
24 property" includes patents, patent applications, trade
25 names, trademarks, service marks, copyrights, mask
26 works, trade secrets, and similar types of intangible

1 assets.

2 This paragraph shall not apply to the following:

3 (i) any item of intangible expenses or costs
4 paid, accrued, or incurred, directly or
5 indirectly, from a transaction with a foreign
6 person who is subject in a foreign country or
7 state, other than a state which requires mandatory
8 unitary reporting, to a tax on or measured by net
9 income with respect to such item; or

10 (ii) any item of intangible expense or cost
11 paid, accrued, or incurred, directly or
12 indirectly, if the taxpayer can establish, based
13 on a preponderance of the evidence, both of the
14 following:

15 (a) the foreign person during the same
16 taxable year paid, accrued, or incurred, the
17 intangible expense or cost to a person that is
18 not a related member, and

19 (b) the transaction giving rise to the
20 intangible expense or cost between the
21 taxpayer and the foreign person did not have as
22 a principal purpose the avoidance of Illinois
23 income tax, and is paid pursuant to a contract
24 or agreement that reflects arm's-length terms;
25 or

26 (iii) any item of intangible expense or cost

1 paid, accrued, or incurred, directly or
2 indirectly, from a transaction with a foreign
3 person if the taxpayer establishes by clear and
4 convincing evidence, that the adjustments are
5 unreasonable; or if the taxpayer and the Director
6 agree in writing to the application or use of an
7 alternative method of apportionment under Section
8 304(f);

9 Nothing in this subsection shall preclude the
10 Director from making any other adjustment
11 otherwise allowed under Section 404 of this Act for
12 any tax year beginning after the effective date of
13 this amendment provided such adjustment is made
14 pursuant to regulation adopted by the Department
15 and such regulations provide methods and standards
16 by which the Department will utilize its authority
17 under Section 404 of this Act;

18 (D-20) For taxable years beginning on or after
19 January 1, 2002, in the case of a distribution from a
20 qualified tuition program under Section 529 of the
21 Internal Revenue Code, other than (i) a distribution
22 from a College Savings Pool created under Section 16.5
23 of the State Treasurer Act or (ii) a distribution from
24 the Illinois Prepaid Tuition Trust Fund, an amount
25 equal to the amount excluded from gross income under
26 Section 529(c)(3)(B);

1 and by deducting from the total so obtained the sum of the
2 following amounts:

3 (E) For taxable years ending before December 31,
4 2001, any amount included in such total in respect of
5 any compensation (including but not limited to any
6 compensation paid or accrued to a serviceman while a
7 prisoner of war or missing in action) paid to a
8 resident by reason of being on active duty in the Armed
9 Forces of the United States and in respect of any
10 compensation paid or accrued to a resident who as a
11 governmental employee was a prisoner of war or missing
12 in action, and in respect of any compensation paid to a
13 resident in 1971 or thereafter for annual training
14 performed pursuant to Sections 502 and 503, Title 32,
15 United States Code as a member of the Illinois National
16 Guard. For taxable years ending on or after December
17 31, 2001, any amount included in such total in respect
18 of any compensation (including but not limited to any
19 compensation paid or accrued to a serviceman while a
20 prisoner of war or missing in action) paid to a
21 resident by reason of being a member of any component
22 of the Armed Forces of the United States and in respect
23 of any compensation paid or accrued to a resident who
24 as a governmental employee was a prisoner of war or
25 missing in action, and in respect of any compensation
26 paid to a resident in 2001 or thereafter by reason of

1 being a member of the Illinois National Guard. The
2 provisions of this amendatory Act of the 92nd General
3 Assembly are exempt from the provisions of Section 250;

4 (F) An amount equal to all amounts included in such
5 total pursuant to the provisions of Sections 402(a),
6 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
7 Internal Revenue Code, or included in such total as
8 distributions under the provisions of any retirement
9 or disability plan for employees of any governmental
10 agency or unit, or retirement payments to retired
11 partners, which payments are excluded in computing net
12 earnings from self employment by Section 1402 of the
13 Internal Revenue Code and regulations adopted pursuant
14 thereto;

15 (G) The valuation limitation amount;

16 (H) An amount equal to the amount of any tax
17 imposed by this Act which was refunded to the taxpayer
18 and included in such total for the taxable year;

19 (I) An amount equal to all amounts included in such
20 total pursuant to the provisions of Section 111 of the
21 Internal Revenue Code as a recovery of items previously
22 deducted from adjusted gross income in the computation
23 of taxable income;

24 (J) An amount equal to those dividends included in
25 such total which were paid by a corporation which
26 conducts business operations in an Enterprise Zone or

1 zones created under the Illinois Enterprise Zone Act or
2 a River Edge Redevelopment Zone or zones created under
3 the River Edge Redevelopment Zone Act, and conducts
4 substantially all of its operations in an Enterprise
5 Zone or zones or a River Edge Redevelopment Zone or
6 zones. This subparagraph (J) is exempt from the
7 provisions of Section 250;

8 (K) An amount equal to those dividends included in
9 such total that were paid by a corporation that
10 conducts business operations in a federally designated
11 Foreign Trade Zone or Sub-Zone and that is designated a
12 High Impact Business located in Illinois; provided
13 that dividends eligible for the deduction provided in
14 subparagraph (J) of paragraph (2) of this subsection
15 shall not be eligible for the deduction provided under
16 this subparagraph (K);

17 (L) For taxable years ending after December 31,
18 1983, an amount equal to all social security benefits
19 and railroad retirement benefits included in such
20 total pursuant to Sections 72(r) and 86 of the Internal
21 Revenue Code;

22 (M) With the exception of any amounts subtracted
23 under subparagraph (N), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a) (2), and 265(2) of the Internal Revenue Code of
26 1954, as now or hereafter amended, and all amounts of

1 expenses allocable to interest and disallowed as
2 deductions by Section 265(1) of the Internal Revenue
3 Code of 1954, as now or hereafter amended; and (ii) for
4 taxable years ending on or after August 13, 1999,
5 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of
6 the Internal Revenue Code; the provisions of this
7 subparagraph are exempt from the provisions of Section
8 250;

9 (N) An amount equal to all amounts included in such
10 total which are exempt from taxation by this State
11 either by reason of its statutes or Constitution or by
12 reason of the Constitution, treaties or statutes of the
13 United States; provided that, in the case of any
14 statute of this State that exempts income derived from
15 bonds or other obligations from the tax imposed under
16 this Act, the amount exempted shall be the interest net
17 of bond premium amortization;

18 (O) An amount equal to any contribution made to a
19 job training project established pursuant to the Tax
20 Increment Allocation Redevelopment Act;

21 (P) An amount equal to the amount of the deduction
22 used to compute the federal income tax credit for
23 restoration of substantial amounts held under claim of
24 right for the taxable year pursuant to Section 1341 of
25 the Internal Revenue Code of 1986;

26 (Q) An amount equal to any amounts included in such

1 total, received by the taxpayer as an acceleration in
2 the payment of life, endowment or annuity benefits in
3 advance of the time they would otherwise be payable as
4 an indemnity for a terminal illness;

5 (R) An amount equal to the amount of any federal or
6 State bonus paid to veterans of the Persian Gulf War;

7 (S) An amount, to the extent included in adjusted
8 gross income, equal to the amount of a contribution
9 made in the taxable year on behalf of the taxpayer to a
10 medical care savings account established under the
11 Medical Care Savings Account Act or the Medical Care
12 Savings Account Act of 2000 to the extent the
13 contribution is accepted by the account administrator
14 as provided in that Act;

15 (T) An amount, to the extent included in adjusted
16 gross income, equal to the amount of interest earned in
17 the taxable year on a medical care savings account
18 established under the Medical Care Savings Account Act
19 or the Medical Care Savings Account Act of 2000 on
20 behalf of the taxpayer, other than interest added
21 pursuant to item (D-5) of this paragraph (2);

22 (U) For one taxable year beginning on or after
23 January 1, 1994, an amount equal to the total amount of
24 tax imposed and paid under subsections (a) and (b) of
25 Section 201 of this Act on grant amounts received by
26 the taxpayer under the Nursing Home Grant Assistance

1 Act during the taxpayer's taxable years 1992 and 1993;

2 (V) Beginning with tax years ending on or after
3 December 31, 1995 and ending with tax years ending on
4 or before December 31, 2004, an amount equal to the
5 amount paid by a taxpayer who is a self-employed
6 taxpayer, a partner of a partnership, or a shareholder
7 in a Subchapter S corporation for health insurance or
8 long-term care insurance for that taxpayer or that
9 taxpayer's spouse or dependents, to the extent that the
10 amount paid for that health insurance or long-term care
11 insurance may be deducted under Section 213 of the
12 Internal Revenue Code of 1986, has not been deducted on
13 the federal income tax return of the taxpayer, and does
14 not exceed the taxable income attributable to that
15 taxpayer's income, self-employment income, or
16 Subchapter S corporation income; except that no
17 deduction shall be allowed under this item (V) if the
18 taxpayer is eligible to participate in any health
19 insurance or long-term care insurance plan of an
20 employer of the taxpayer or the taxpayer's spouse. The
21 amount of the health insurance and long-term care
22 insurance subtracted under this item (V) shall be
23 determined by multiplying total health insurance and
24 long-term care insurance premiums paid by the taxpayer
25 times a number that represents the fractional
26 percentage of eligible medical expenses under Section

1 213 of the Internal Revenue Code of 1986 not actually
2 deducted on the taxpayer's federal income tax return;

3 (W) For taxable years beginning on or after January
4 1, 1998, all amounts included in the taxpayer's federal
5 gross income in the taxable year from amounts converted
6 from a regular IRA to a Roth IRA. This paragraph is
7 exempt from the provisions of Section 250;

8 (X) For taxable year 1999 and thereafter, an amount
9 equal to the amount of any (i) distributions, to the
10 extent includible in gross income for federal income
11 tax purposes, made to the taxpayer because of his or
12 her status as a victim of persecution for racial or
13 religious reasons by Nazi Germany or any other Axis
14 regime or as an heir of the victim and (ii) items of
15 income, to the extent includible in gross income for
16 federal income tax purposes, attributable to, derived
17 from or in any way related to assets stolen from,
18 hidden from, or otherwise lost to a victim of
19 persecution for racial or religious reasons by Nazi
20 Germany or any other Axis regime immediately prior to,
21 during, and immediately after World War II, including,
22 but not limited to, interest on the proceeds receivable
23 as insurance under policies issued to a victim of
24 persecution for racial or religious reasons by Nazi
25 Germany or any other Axis regime by European insurance
26 companies immediately prior to and during World War II;

1 provided, however, this subtraction from federal
2 adjusted gross income does not apply to assets acquired
3 with such assets or with the proceeds from the sale of
4 such assets; provided, further, this paragraph shall
5 only apply to a taxpayer who was the first recipient of
6 such assets after their recovery and who is a victim of
7 persecution for racial or religious reasons by Nazi
8 Germany or any other Axis regime or as an heir of the
9 victim. The amount of and the eligibility for any
10 public assistance, benefit, or similar entitlement is
11 not affected by the inclusion of items (i) and (ii) of
12 this paragraph in gross income for federal income tax
13 purposes. This paragraph is exempt from the provisions
14 of Section 250;

15 (Y) For taxable years beginning on or after January
16 1, 2002 and ending on or before December 31, 2004,
17 moneys contributed in the taxable year to a College
18 Savings Pool account under Section 16.5 of the State
19 Treasurer Act, except that amounts excluded from gross
20 income under Section 529(c)(3)(C)(i) of the Internal
21 Revenue Code shall not be considered moneys
22 contributed under this subparagraph (Y). For taxable
23 years beginning on or after January 1, 2005, a maximum
24 of \$10,000 contributed in the taxable year to (i) a
25 College Savings Pool account under Section 16.5 of the
26 State Treasurer Act or (ii) the Illinois Prepaid

1 Tuition Trust Fund, except that amounts excluded from
2 gross income under Section 529(c)(3)(C)(i) of the
3 Internal Revenue Code shall not be considered moneys
4 contributed under this subparagraph (Y). This
5 subparagraph (Y) is exempt from the provisions of
6 Section 250;

7 (Z) For taxable years 2001 and thereafter, for the
8 taxable year in which the bonus depreciation deduction
9 is taken on the taxpayer's federal income tax return
10 under subsection (k) of Section 168 of the Internal
11 Revenue Code and for each applicable taxable year
12 thereafter, an amount equal to "x", where:

13 (1) "y" equals the amount of the depreciation
14 deduction taken for the taxable year on the
15 taxpayer's federal income tax return on property
16 for which the bonus depreciation deduction was
17 taken in any year under subsection (k) of Section
18 168 of the Internal Revenue Code, but not including
19 the bonus depreciation deduction;

20 (2) for taxable years ending on or before
21 December 31, 2005, "x" equals "y" multiplied by 30
22 and then divided by 70 (or "y" multiplied by
23 0.429); and

24 (3) for taxable years ending after December
25 31, 2005:

26 (i) for property on which a bonus

1 depreciation deduction of 30% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 30 and then divided by 70 (or "y" multiplied by
4 0.429); and

5 (ii) for property on which a bonus
6 depreciation deduction of 50% of the adjusted
7 basis was taken, "x" equals "y" multiplied by
8 1.0.

9 The aggregate amount deducted under this
10 subparagraph in all taxable years for any one piece of
11 property may not exceed the amount of the bonus
12 depreciation deduction taken on that property on the
13 taxpayer's federal income tax return under subsection
14 (k) of Section 168 of the Internal Revenue Code. This
15 subparagraph (Z) is exempt from the provisions of
16 Section 250;

17 (AA) If the taxpayer sells, transfers, abandons,
18 or otherwise disposes of property for which the
19 taxpayer was required in any taxable year to make an
20 addition modification under subparagraph (D-15), then
21 an amount equal to that addition modification.

22 If the taxpayer continues to own property through
23 the last day of the last tax year for which the
24 taxpayer may claim a depreciation deduction for
25 federal income tax purposes and for which the taxpayer
26 was required in any taxable year to make an addition

1 modification under subparagraph (D-15), then an amount
2 equal to that addition modification.

3 The taxpayer is allowed to take the deduction under
4 this subparagraph only once with respect to any one
5 piece of property.

6 This subparagraph (AA) is exempt from the
7 provisions of Section 250;

8 (BB) Any amount included in adjusted gross income,
9 other than salary, received by a driver in a
10 ridesharing arrangement using a motor vehicle;

11 (CC) The amount of (i) any interest income (net of
12 the deductions allocable thereto) taken into account
13 for the taxable year with respect to a transaction with
14 a taxpayer that is required to make an addition
15 modification with respect to such transaction under
16 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
17 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
18 the amount of that addition modification, and (ii) any
19 income from intangible property (net of the deductions
20 allocable thereto) taken into account for the taxable
21 year with respect to a transaction with a taxpayer that
22 is required to make an addition modification with
23 respect to such transaction under Section
24 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
25 203(d)(2)(D-8), but not to exceed the amount of that
26 addition modification;

1 (DD) An amount equal to the interest income taken
2 into account for the taxable year (net of the
3 deductions allocable thereto) with respect to
4 transactions with a foreign person who would be a
5 member of the taxpayer's unitary business group but for
6 the fact that the foreign person's business activity
7 outside the United States is 80% or more of that
8 person's total business activity, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(a)(2)(D-17) for
11 interest paid, accrued, or incurred, directly or
12 indirectly, to the same foreign person; ~~and~~

13 (EE) An amount equal to the income from intangible
14 property taken into account for the taxable year (net
15 of the deductions allocable thereto) with respect to
16 transactions with a foreign person who would be a
17 member of the taxpayer's unitary business group but for
18 the fact that the foreign person's business activity
19 outside the United States is 80% or more of that
20 person's total business activity, but not to exceed the
21 addition modification required to be made for the same
22 taxable year under Section 203(a)(2)(D-18) for
23 intangible expenses and costs paid, accrued, or
24 incurred, directly or indirectly, to the same foreign
25 person; and -

26 (FF) For taxable years ending on or after December

1 31, 2007, an amount equal to the earnings on a special
2 needs trust, to the extent included in adjusted gross
3 income. As used in this subparagraph, "special needs
4 trust" means a trust that is not liable to pay or
5 reimburse the State or any public agency for financial
6 aid or services to the individual, as provided in
7 Section 15.1 of the Trusts and Trustees Act.

8 (b) Corporations.

9 (1) In general. In the case of a corporation, base
10 income means an amount equal to the taxpayer's taxable
11 income for the taxable year as modified by paragraph (2).

12 (2) Modifications. The taxable income referred to in
13 paragraph (1) shall be modified by adding thereto the sum
14 of the following amounts:

15 (A) An amount equal to all amounts paid or accrued
16 to the taxpayer as interest and all distributions
17 received from regulated investment companies during
18 the taxable year to the extent excluded from gross
19 income in the computation of taxable income;

20 (B) An amount equal to the amount of tax imposed by
21 this Act to the extent deducted from gross income in
22 the computation of taxable income for the taxable year;

23 (C) In the case of a regulated investment company,
24 an amount equal to the excess of (i) the net long-term
25 capital gain for the taxable year, over (ii) the amount

1 of the capital gain dividends designated as such in
2 accordance with Section 852(b)(3)(C) of the Internal
3 Revenue Code and any amount designated under Section
4 852(b)(3)(D) of the Internal Revenue Code,
5 attributable to the taxable year (this amendatory Act
6 of 1995 (Public Act 89-89) is declarative of existing
7 law and is not a new enactment);

8 (D) The amount of any net operating loss deduction
9 taken in arriving at taxable income, other than a net
10 operating loss carried forward from a taxable year
11 ending prior to December 31, 1986;

12 (E) For taxable years in which a net operating loss
13 carryback or carryforward from a taxable year ending
14 prior to December 31, 1986 is an element of taxable
15 income under paragraph (1) of subsection (e) or
16 subparagraph (E) of paragraph (2) of subsection (e),
17 the amount by which addition modifications other than
18 those provided by this subparagraph (E) exceeded
19 subtraction modifications in such earlier taxable
20 year, with the following limitations applied in the
21 order that they are listed:

22 (i) the addition modification relating to the
23 net operating loss carried back or forward to the
24 taxable year from any taxable year ending prior to
25 December 31, 1986 shall be reduced by the amount of
26 addition modification under this subparagraph (E)

1 which related to that net operating loss and which
2 was taken into account in calculating the base
3 income of an earlier taxable year, and

4 (ii) the addition modification relating to the
5 net operating loss carried back or forward to the
6 taxable year from any taxable year ending prior to
7 December 31, 1986 shall not exceed the amount of
8 such carryback or carryforward;

9 For taxable years in which there is a net operating
10 loss carryback or carryforward from more than one other
11 taxable year ending prior to December 31, 1986, the
12 addition modification provided in this subparagraph
13 (E) shall be the sum of the amounts computed
14 independently under the preceding provisions of this
15 subparagraph (E) for each such taxable year;

16 (E-5) For taxable years ending after December 31,
17 1997, an amount equal to any eligible remediation costs
18 that the corporation deducted in computing adjusted
19 gross income and for which the corporation claims a
20 credit under subsection (l) of Section 201;

21 (E-10) For taxable years 2001 and thereafter, an
22 amount equal to the bonus depreciation deduction taken
23 on the taxpayer's federal income tax return for the
24 taxable year under subsection (k) of Section 168 of the
25 Internal Revenue Code; and

26 (E-11) If the taxpayer sells, transfers, abandons,

1 or otherwise disposes of property for which the
2 taxpayer was required in any taxable year to make an
3 addition modification under subparagraph (E-10), then
4 an amount equal to the aggregate amount of the
5 deductions taken in all taxable years under
6 subparagraph (T) with respect to that property.

7 If the taxpayer continues to own property through
8 the last day of the last tax year for which the
9 taxpayer may claim a depreciation deduction for
10 federal income tax purposes and for which the taxpayer
11 was allowed in any taxable year to make a subtraction
12 modification under subparagraph (T), then an amount
13 equal to that subtraction modification.

14 The taxpayer is required to make the addition
15 modification under this subparagraph only once with
16 respect to any one piece of property;

17 (E-12) For taxable years ending on or after
18 December 31, 2004, an amount equal to the amount
19 otherwise allowed as a deduction in computing base
20 income for interest paid, accrued, or incurred,
21 directly or indirectly, to a foreign person who would
22 be a member of the same unitary business group but for
23 the fact the foreign person's business activity
24 outside the United States is 80% or more of the foreign
25 person's total business activity. The addition
26 modification required by this subparagraph shall be

1 reduced to the extent that dividends were included in
2 base income of the unitary group for the same taxable
3 year and received by the taxpayer or by a member of the
4 taxpayer's unitary business group (including amounts
5 included in gross income pursuant to Sections 951
6 through 964 of the Internal Revenue Code and amounts
7 included in gross income under Section 78 of the
8 Internal Revenue Code) with respect to the stock of the
9 same person to whom the interest was paid, accrued, or
10 incurred.

11 This paragraph shall not apply to the following:

12 (i) an item of interest paid, accrued, or
13 incurred, directly or indirectly, to a foreign
14 person who is subject in a foreign country or
15 state, other than a state which requires mandatory
16 unitary reporting, to a tax on or measured by net
17 income with respect to such interest; or

18 (ii) an item of interest paid, accrued, or
19 incurred, directly or indirectly, to a foreign
20 person if the taxpayer can establish, based on a
21 preponderance of the evidence, both of the
22 following:

23 (a) the foreign person, during the same
24 taxable year, paid, accrued, or incurred, the
25 interest to a person that is not a related
26 member, and

1 (b) the transaction giving rise to the
2 interest expense between the taxpayer and the
3 foreign person did not have as a principal
4 purpose the avoidance of Illinois income tax,
5 and is paid pursuant to a contract or agreement
6 that reflects an arm's-length interest rate
7 and terms; or

8 (iii) the taxpayer can establish, based on
9 clear and convincing evidence, that the interest
10 paid, accrued, or incurred relates to a contract or
11 agreement entered into at arm's-length rates and
12 terms and the principal purpose for the payment is
13 not federal or Illinois tax avoidance; or

14 (iv) an item of interest paid, accrued, or
15 incurred, directly or indirectly, to a foreign
16 person if the taxpayer establishes by clear and
17 convincing evidence that the adjustments are
18 unreasonable; or if the taxpayer and the Director
19 agree in writing to the application or use of an
20 alternative method of apportionment under Section
21 304(f).

22 Nothing in this subsection shall preclude the
23 Director from making any other adjustment
24 otherwise allowed under Section 404 of this Act for
25 any tax year beginning after the effective date of
26 this amendment provided such adjustment is made

1 pursuant to regulation adopted by the Department
2 and such regulations provide methods and standards
3 by which the Department will utilize its authority
4 under Section 404 of this Act;

5 (E-13) For taxable years ending on or after
6 December 31, 2004, an amount equal to the amount of
7 intangible expenses and costs otherwise allowed as a
8 deduction in computing base income, and that were paid,
9 accrued, or incurred, directly or indirectly, to a
10 foreign person who would be a member of the same
11 unitary business group but for the fact that the
12 foreign person's business activity outside the United
13 States is 80% or more of that person's total business
14 activity. The addition modification required by this
15 subparagraph shall be reduced to the extent that
16 dividends were included in base income of the unitary
17 group for the same taxable year and received by the
18 taxpayer or by a member of the taxpayer's unitary
19 business group (including amounts included in gross
20 income pursuant to Sections 951 through 964 of the
21 Internal Revenue Code and amounts included in gross
22 income under Section 78 of the Internal Revenue Code)
23 with respect to the stock of the same person to whom
24 the intangible expenses and costs were directly or
25 indirectly paid, incurred, or accrued. The preceding
26 sentence shall not apply to the extent that the same

1 dividends caused a reduction to the addition
2 modification required under Section 203(b)(2)(E-12) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes (1) expenses,
5 losses, and costs for, or related to, the direct or
6 indirect acquisition, use, maintenance or management,
7 ownership, sale, exchange, or any other disposition of
8 intangible property; (2) losses incurred, directly or
9 indirectly, from factoring transactions or discounting
10 transactions; (3) royalty, patent, technical, and
11 copyright fees; (4) licensing fees; and (5) other
12 similar expenses and costs. For purposes of this
13 subparagraph, "intangible property" includes patents,
14 patent applications, trade names, trademarks, service
15 marks, copyrights, mask works, trade secrets, and
16 similar types of intangible assets.

17 This paragraph shall not apply to the following:

18 (i) any item of intangible expenses or costs
19 paid, accrued, or incurred, directly or
20 indirectly, from a transaction with a foreign
21 person who is subject in a foreign country or
22 state, other than a state which requires mandatory
23 unitary reporting, to a tax on or measured by net
24 income with respect to such item; or

25 (ii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or

1 indirectly, if the taxpayer can establish, based
2 on a preponderance of the evidence, both of the
3 following:

4 (a) the foreign person during the same
5 taxable year paid, accrued, or incurred, the
6 intangible expense or cost to a person that is
7 not a related member, and

8 (b) the transaction giving rise to the
9 intangible expense or cost between the
10 taxpayer and the foreign person did not have as
11 a principal purpose the avoidance of Illinois
12 income tax, and is paid pursuant to a contract
13 or agreement that reflects arm's-length terms;
14 or

15 (iii) any item of intangible expense or cost
16 paid, accrued, or incurred, directly or
17 indirectly, from a transaction with a foreign
18 person if the taxpayer establishes by clear and
19 convincing evidence, that the adjustments are
20 unreasonable; or if the taxpayer and the Director
21 agree in writing to the application or use of an
22 alternative method of apportionment under Section
23 304(f);

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

1 any tax year beginning after the effective date of
2 this amendment provided such adjustment is made
3 pursuant to regulation adopted by the Department
4 and such regulations provide methods and standards
5 by which the Department will utilize its authority
6 under Section 404 of this Act;

7 and by deducting from the total so obtained the sum of the
8 following amounts:

9 (F) An amount equal to the amount of any tax
10 imposed by this Act which was refunded to the taxpayer
11 and included in such total for the taxable year;

12 (G) An amount equal to any amount included in such
13 total under Section 78 of the Internal Revenue Code;

14 (H) In the case of a regulated investment company,
15 an amount equal to the amount of exempt interest
16 dividends as defined in subsection (b) (5) of Section
17 852 of the Internal Revenue Code, paid to shareholders
18 for the taxable year;

19 (I) With the exception of any amounts subtracted
20 under subparagraph (J), an amount equal to the sum of
21 all amounts disallowed as deductions by (i) Sections
22 171(a) (2), and 265(a) (2) and amounts disallowed as
23 interest expense by Section 291(a) (3) of the Internal
24 Revenue Code, as now or hereafter amended, and all
25 amounts of expenses allocable to interest and
26 disallowed as deductions by Section 265(a) (1) of the

1 Internal Revenue Code, as now or hereafter amended; and
2 (ii) for taxable years ending on or after August 13,
3 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
4 832(b)(5)(B)(i) of the Internal Revenue Code; the
5 provisions of this subparagraph are exempt from the
6 provisions of Section 250;

7 (J) An amount equal to all amounts included in such
8 total which are exempt from taxation by this State
9 either by reason of its statutes or Constitution or by
10 reason of the Constitution, treaties or statutes of the
11 United States; provided that, in the case of any
12 statute of this State that exempts income derived from
13 bonds or other obligations from the tax imposed under
14 this Act, the amount exempted shall be the interest net
15 of bond premium amortization;

16 (K) An amount equal to those dividends included in
17 such total which were paid by a corporation which
18 conducts business operations in an Enterprise Zone or
19 zones created under the Illinois Enterprise Zone Act or
20 a River Edge Redevelopment Zone or zones created under
21 the River Edge Redevelopment Zone Act and conducts
22 substantially all of its operations in an Enterprise
23 Zone or zones or a River Edge Redevelopment Zone or
24 zones. This subparagraph (K) is exempt from the
25 provisions of Section 250;

26 (L) An amount equal to those dividends included in

1 such total that were paid by a corporation that
2 conducts business operations in a federally designated
3 Foreign Trade Zone or Sub-Zone and that is designated a
4 High Impact Business located in Illinois; provided
5 that dividends eligible for the deduction provided in
6 subparagraph (K) of paragraph 2 of this subsection
7 shall not be eligible for the deduction provided under
8 this subparagraph (L);

9 (M) For any taxpayer that is a financial
10 organization within the meaning of Section 304(c) of
11 this Act, an amount included in such total as interest
12 income from a loan or loans made by such taxpayer to a
13 borrower, to the extent that such a loan is secured by
14 property which is eligible for the Enterprise Zone
15 Investment Credit or the River Edge Redevelopment Zone
16 Investment Credit. To determine the portion of a loan
17 or loans that is secured by property eligible for a
18 Section 201(f) investment credit to the borrower, the
19 entire principal amount of the loan or loans between
20 the taxpayer and the borrower should be divided into
21 the basis of the Section 201(f) investment credit
22 property which secures the loan or loans, using for
23 this purpose the original basis of such property on the
24 date that it was placed in service in the Enterprise
25 Zone or the River Edge Redevelopment Zone. The
26 subtraction modification available to taxpayer in any

1 year under this subsection shall be that portion of the
2 total interest paid by the borrower with respect to
3 such loan attributable to the eligible property as
4 calculated under the previous sentence. This
5 subparagraph (M) is exempt from the provisions of
6 Section 250;

7 (M-1) For any taxpayer that is a financial
8 organization within the meaning of Section 304(c) of
9 this Act, an amount included in such total as interest
10 income from a loan or loans made by such taxpayer to a
11 borrower, to the extent that such a loan is secured by
12 property which is eligible for the High Impact Business
13 Investment Credit. To determine the portion of a loan
14 or loans that is secured by property eligible for a
15 Section 201(h) investment credit to the borrower, the
16 entire principal amount of the loan or loans between
17 the taxpayer and the borrower should be divided into
18 the basis of the Section 201(h) investment credit
19 property which secures the loan or loans, using for
20 this purpose the original basis of such property on the
21 date that it was placed in service in a federally
22 designated Foreign Trade Zone or Sub-Zone located in
23 Illinois. No taxpayer that is eligible for the
24 deduction provided in subparagraph (M) of paragraph
25 (2) of this subsection shall be eligible for the
26 deduction provided under this subparagraph (M-1). The

1 subtraction modification available to taxpayers in any
2 year under this subsection shall be that portion of the
3 total interest paid by the borrower with respect to
4 such loan attributable to the eligible property as
5 calculated under the previous sentence;

6 (N) Two times any contribution made during the
7 taxable year to a designated zone organization to the
8 extent that the contribution (i) qualifies as a
9 charitable contribution under subsection (c) of
10 Section 170 of the Internal Revenue Code and (ii) must,
11 by its terms, be used for a project approved by the
12 Department of Commerce and Economic Opportunity under
13 Section 11 of the Illinois Enterprise Zone Act or under
14 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment
15 Zone Act. This subparagraph (N) is exempt from the
16 provisions of Section 250;

17 (O) An amount equal to: (i) 85% for taxable years
18 ending on or before December 31, 1992, or, a percentage
19 equal to the percentage allowable under Section
20 243(a)(1) of the Internal Revenue Code of 1986 for
21 taxable years ending after December 31, 1992, of the
22 amount by which dividends included in taxable income
23 and received from a corporation that is not created or
24 organized under the laws of the United States or any
25 state or political subdivision thereof, including, for
26 taxable years ending on or after December 31, 1988,

1 dividends received or deemed received or paid or deemed
2 paid under Sections 951 through 964 of the Internal
3 Revenue Code, exceed the amount of the modification
4 provided under subparagraph (G) of paragraph (2) of
5 this subsection (b) which is related to such dividends;
6 plus (ii) 100% of the amount by which dividends,
7 included in taxable income and received, including,
8 for taxable years ending on or after December 31, 1988,
9 dividends received or deemed received or paid or deemed
10 paid under Sections 951 through 964 of the Internal
11 Revenue Code, from any such corporation specified in
12 clause (i) that would but for the provisions of Section
13 1504 (b) (3) of the Internal Revenue Code be treated as
14 a member of the affiliated group which includes the
15 dividend recipient, exceed the amount of the
16 modification provided under subparagraph (G) of
17 paragraph (2) of this subsection (b) which is related
18 to such dividends;

19 (P) An amount equal to any contribution made to a
20 job training project established pursuant to the Tax
21 Increment Allocation Redevelopment Act;

22 (Q) An amount equal to the amount of the deduction
23 used to compute the federal income tax credit for
24 restoration of substantial amounts held under claim of
25 right for the taxable year pursuant to Section 1341 of
26 the Internal Revenue Code of 1986;

1 (R) On and after July 20, 1999, in the case of an
2 attorney-in-fact with respect to whom an interinsurer
3 or a reciprocal insurer has made the election under
4 Section 835 of the Internal Revenue Code, 26 U.S.C.
5 835, an amount equal to the excess, if any, of the
6 amounts paid or incurred by that interinsurer or
7 reciprocal insurer in the taxable year to the
8 attorney-in-fact over the deduction allowed to that
9 interinsurer or reciprocal insurer with respect to the
10 attorney-in-fact under Section 835(b) of the Internal
11 Revenue Code for the taxable year; the provisions of
12 this subparagraph are exempt from the provisions of
13 Section 250;

14 (S) For taxable years ending on or after December
15 31, 1997, in the case of a Subchapter S corporation, an
16 amount equal to all amounts of income allocable to a
17 shareholder subject to the Personal Property Tax
18 Replacement Income Tax imposed by subsections (c) and
19 (d) of Section 201 of this Act, including amounts
20 allocable to organizations exempt from federal income
21 tax by reason of Section 501(a) of the Internal Revenue
22 Code. This subparagraph (S) is exempt from the
23 provisions of Section 250;

24 (T) For taxable years 2001 and thereafter, for the
25 taxable year in which the bonus depreciation deduction
26 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal
2 Revenue Code and for each applicable taxable year
3 thereafter, an amount equal to "x", where:

4 (1) "y" equals the amount of the depreciation
5 deduction taken for the taxable year on the
6 taxpayer's federal income tax return on property
7 for which the bonus depreciation deduction was
8 taken in any year under subsection (k) of Section
9 168 of the Internal Revenue Code, but not including
10 the bonus depreciation deduction;

11 (2) for taxable years ending on or before
12 December 31, 2005, "x" equals "y" multiplied by 30
13 and then divided by 70 (or "y" multiplied by
14 0.429); and

15 (3) for taxable years ending after December
16 31, 2005:

17 (i) for property on which a bonus
18 depreciation deduction of 30% of the adjusted
19 basis was taken, "x" equals "y" multiplied by
20 30 and then divided by 70 (or "y" multiplied by
21 0.429); and

22 (ii) for property on which a bonus
23 depreciation deduction of 50% of the adjusted
24 basis was taken, "x" equals "y" multiplied by
25 1.0.

26 The aggregate amount deducted under this

1 subparagraph in all taxable years for any one piece of
2 property may not exceed the amount of the bonus
3 depreciation deduction taken on that property on the
4 taxpayer's federal income tax return under subsection
5 (k) of Section 168 of the Internal Revenue Code. This
6 subparagraph (T) is exempt from the provisions of
7 Section 250;

8 (U) If the taxpayer sells, transfers, abandons, or
9 otherwise disposes of property for which the taxpayer
10 was required in any taxable year to make an addition
11 modification under subparagraph (E-10), then an amount
12 equal to that addition modification.

13 If the taxpayer continues to own property through
14 the last day of the last tax year for which the
15 taxpayer may claim a depreciation deduction for
16 federal income tax purposes and for which the taxpayer
17 was required in any taxable year to make an addition
18 modification under subparagraph (E-10), then an amount
19 equal to that addition modification.

20 The taxpayer is allowed to take the deduction under
21 this subparagraph only once with respect to any one
22 piece of property.

23 This subparagraph (U) is exempt from the
24 provisions of Section 250;

25 (V) The amount of: (i) any interest income (net of
26 the deductions allocable thereto) taken into account

1 for the taxable year with respect to a transaction with
2 a taxpayer that is required to make an addition
3 modification with respect to such transaction under
4 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
6 the amount of such addition modification and (ii) any
7 income from intangible property (net of the deductions
8 allocable thereto) taken into account for the taxable
9 year with respect to a transaction with a taxpayer that
10 is required to make an addition modification with
11 respect to such transaction under Section
12 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
13 203(d)(2)(D-8), but not to exceed the amount of such
14 addition modification;

15 (W) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact that the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity, but not to exceed the
23 addition modification required to be made for the same
24 taxable year under Section 203(b)(2)(E-12) for
25 interest paid, accrued, or incurred, directly or
26 indirectly, to the same foreign person; ~~and~~

1 (X) An amount equal to the income from intangible
2 property taken into account for the taxable year (net
3 of the deductions allocable thereto) with respect to
4 transactions with a foreign person who would be a
5 member of the taxpayer's unitary business group but for
6 the fact that the foreign person's business activity
7 outside the United States is 80% or more of that
8 person's total business activity, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(b)(2)(E-13) for
11 intangible expenses and costs paid, accrued, or
12 incurred, directly or indirectly, to the same foreign
13 person; and -

14 (Y) For taxable years ending on or after December
15 31, 2007, an amount equal to the earnings on a special
16 needs trust, to the extent included in adjusted gross
17 income. As used in this subparagraph, "special needs
18 trust" means a trust that is not liable to pay or
19 reimburse the State or any public agency for financial
20 aid or services to the individual, as provided in
21 Section 15.1 of the Trusts and Trustees Act.

22 (3) Special rule. For purposes of paragraph (2) (A),
23 "gross income" in the case of a life insurance company, for
24 tax years ending on and after December 31, 1994, shall mean
25 the gross investment income for the taxable year.

1 (c) Trusts and estates.

2 (1) In general. In the case of a trust or estate, base
3 income means an amount equal to the taxpayer's taxable
4 income for the taxable year as modified by paragraph (2).

5 (2) Modifications. Subject to the provisions of
6 paragraph (3), the taxable income referred to in paragraph
7 (1) shall be modified by adding thereto the sum of the
8 following amounts:

9 (A) An amount equal to all amounts paid or accrued
10 to the taxpayer as interest or dividends during the
11 taxable year to the extent excluded from gross income
12 in the computation of taxable income;

13 (B) In the case of (i) an estate, \$600; (ii) a
14 trust which, under its governing instrument, is
15 required to distribute all of its income currently,
16 \$300; and (iii) any other trust, \$100, but in each such
17 case, only to the extent such amount was deducted in
18 the computation of taxable income;

19 (C) An amount equal to the amount of tax imposed by
20 this Act to the extent deducted from gross income in
21 the computation of taxable income for the taxable year;

22 (D) The amount of any net operating loss deduction
23 taken in arriving at taxable income, other than a net
24 operating loss carried forward from a taxable year
25 ending prior to December 31, 1986;

26 (E) For taxable years in which a net operating loss

1 carryback or carryforward from a taxable year ending
2 prior to December 31, 1986 is an element of taxable
3 income under paragraph (1) of subsection (e) or
4 subparagraph (E) of paragraph (2) of subsection (e),
5 the amount by which addition modifications other than
6 those provided by this subparagraph (E) exceeded
7 subtraction modifications in such taxable year, with
8 the following limitations applied in the order that
9 they are listed:

10 (i) the addition modification relating to the
11 net operating loss carried back or forward to the
12 taxable year from any taxable year ending prior to
13 December 31, 1986 shall be reduced by the amount of
14 addition modification under this subparagraph (E)
15 which related to that net operating loss and which
16 was taken into account in calculating the base
17 income of an earlier taxable year, and

18 (ii) the addition modification relating to the
19 net operating loss carried back or forward to the
20 taxable year from any taxable year ending prior to
21 December 31, 1986 shall not exceed the amount of
22 such carryback or carryforward;

23 For taxable years in which there is a net operating
24 loss carryback or carryforward from more than one other
25 taxable year ending prior to December 31, 1986, the
26 addition modification provided in this subparagraph

1 (E) shall be the sum of the amounts computed
2 independently under the preceding provisions of this
3 subparagraph (E) for each such taxable year;

4 (F) For taxable years ending on or after January 1,
5 1989, an amount equal to the tax deducted pursuant to
6 Section 164 of the Internal Revenue Code if the trust
7 or estate is claiming the same tax for purposes of the
8 Illinois foreign tax credit under Section 601 of this
9 Act;

10 (G) An amount equal to the amount of the capital
11 gain deduction allowable under the Internal Revenue
12 Code, to the extent deducted from gross income in the
13 computation of taxable income;

14 (G-5) For taxable years ending after December 31,
15 1997, an amount equal to any eligible remediation costs
16 that the trust or estate deducted in computing adjusted
17 gross income and for which the trust or estate claims a
18 credit under subsection (l) of Section 201;

19 (G-10) For taxable years 2001 and thereafter, an
20 amount equal to the bonus depreciation deduction taken
21 on the taxpayer's federal income tax return for the
22 taxable year under subsection (k) of Section 168 of the
23 Internal Revenue Code; and

24 (G-11) If the taxpayer sells, transfers, abandons,
25 or otherwise disposes of property for which the
26 taxpayer was required in any taxable year to make an

1 addition modification under subparagraph (G-10), then
2 an amount equal to the aggregate amount of the
3 deductions taken in all taxable years under
4 subparagraph (R) with respect to that property.

5 If the taxpayer continues to own property through
6 the last day of the last tax year for which the
7 taxpayer may claim a depreciation deduction for
8 federal income tax purposes and for which the taxpayer
9 was allowed in any taxable year to make a subtraction
10 modification under subparagraph (R), then an amount
11 equal to that subtraction modification.

12 The taxpayer is required to make the addition
13 modification under this subparagraph only once with
14 respect to any one piece of property;

15 (G-12) For taxable years ending on or after
16 December 31, 2004, an amount equal to the amount
17 otherwise allowed as a deduction in computing base
18 income for interest paid, accrued, or incurred,
19 directly or indirectly, to a foreign person who would
20 be a member of the same unitary business group but for
21 the fact that the foreign person's business activity
22 outside the United States is 80% or more of the foreign
23 person's total business activity. The addition
24 modification required by this subparagraph shall be
25 reduced to the extent that dividends were included in
26 base income of the unitary group for the same taxable

1 year and received by the taxpayer or by a member of the
2 taxpayer's unitary business group (including amounts
3 included in gross income pursuant to Sections 951
4 through 964 of the Internal Revenue Code and amounts
5 included in gross income under Section 78 of the
6 Internal Revenue Code) with respect to the stock of the
7 same person to whom the interest was paid, accrued, or
8 incurred.

9 This paragraph shall not apply to the following:

10 (i) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a foreign
12 person who is subject in a foreign country or
13 state, other than a state which requires mandatory
14 unitary reporting, to a tax on or measured by net
15 income with respect to such interest; or

16 (ii) an item of interest paid, accrued, or
17 incurred, directly or indirectly, to a foreign
18 person if the taxpayer can establish, based on a
19 preponderance of the evidence, both of the
20 following:

21 (a) the foreign person, during the same
22 taxable year, paid, accrued, or incurred, the
23 interest to a person that is not a related
24 member, and

25 (b) the transaction giving rise to the
26 interest expense between the taxpayer and the

1 foreign person did not have as a principal
2 purpose the avoidance of Illinois income tax,
3 and is paid pursuant to a contract or agreement
4 that reflects an arm's-length interest rate
5 and terms; or

6 (iii) the taxpayer can establish, based on
7 clear and convincing evidence, that the interest
8 paid, accrued, or incurred relates to a contract or
9 agreement entered into at arm's-length rates and
10 terms and the principal purpose for the payment is
11 not federal or Illinois tax avoidance; or

12 (iv) an item of interest paid, accrued, or
13 incurred, directly or indirectly, to a foreign
14 person if the taxpayer establishes by clear and
15 convincing evidence that the adjustments are
16 unreasonable; or if the taxpayer and the Director
17 agree in writing to the application or use of an
18 alternative method of apportionment under Section
19 304(f).

20 Nothing in this subsection shall preclude the
21 Director from making any other adjustment
22 otherwise allowed under Section 404 of this Act for
23 any tax year beginning after the effective date of
24 this amendment provided such adjustment is made
25 pursuant to regulation adopted by the Department
26 and such regulations provide methods and standards

1 by which the Department will utilize its authority
2 under Section 404 of this Act;

3 (G-13) For taxable years ending on or after
4 December 31, 2004, an amount equal to the amount of
5 intangible expenses and costs otherwise allowed as a
6 deduction in computing base income, and that were paid,
7 accrued, or incurred, directly or indirectly, to a
8 foreign person who would be a member of the same
9 unitary business group but for the fact that the
10 foreign person's business activity outside the United
11 States is 80% or more of that person's total business
12 activity. The addition modification required by this
13 subparagraph shall be reduced to the extent that
14 dividends were included in base income of the unitary
15 group for the same taxable year and received by the
16 taxpayer or by a member of the taxpayer's unitary
17 business group (including amounts included in gross
18 income pursuant to Sections 951 through 964 of the
19 Internal Revenue Code and amounts included in gross
20 income under Section 78 of the Internal Revenue Code)
21 with respect to the stock of the same person to whom
22 the intangible expenses and costs were directly or
23 indirectly paid, incurred, or accrued. The preceding
24 sentence shall not apply to the extent that the same
25 dividends caused a reduction to the addition
26 modification required under Section 203(c) (2) (G-12) of

1 this Act. As used in this subparagraph, the term
2 "intangible expenses and costs" includes: (1)
3 expenses, losses, and costs for or related to the
4 direct or indirect acquisition, use, maintenance or
5 management, ownership, sale, exchange, or any other
6 disposition of intangible property; (2) losses
7 incurred, directly or indirectly, from factoring
8 transactions or discounting transactions; (3) royalty,
9 patent, technical, and copyright fees; (4) licensing
10 fees; and (5) other similar expenses and costs. For
11 purposes of this subparagraph, "intangible property"
12 includes patents, patent applications, trade names,
13 trademarks, service marks, copyrights, mask works,
14 trade secrets, and similar types of intangible assets.

15 This paragraph shall not apply to the following:

16 (i) any item of intangible expenses or costs
17 paid, accrued, or incurred, directly or
18 indirectly, from a transaction with a foreign
19 person who is subject in a foreign country or
20 state, other than a state which requires mandatory
21 unitary reporting, to a tax on or measured by net
22 income with respect to such item; or

23 (ii) any item of intangible expense or cost
24 paid, accrued, or incurred, directly or
25 indirectly, if the taxpayer can establish, based
26 on a preponderance of the evidence, both of the

1 following:

2 (a) the foreign person during the same
3 taxable year paid, accrued, or incurred, the
4 intangible expense or cost to a person that is
5 not a related member, and

6 (b) the transaction giving rise to the
7 intangible expense or cost between the
8 taxpayer and the foreign person did not have as
9 a principal purpose the avoidance of Illinois
10 income tax, and is paid pursuant to a contract
11 or agreement that reflects arm's-length terms;
12 or

13 (iii) any item of intangible expense or cost
14 paid, accrued, or incurred, directly or
15 indirectly, from a transaction with a foreign
16 person if the taxpayer establishes by clear and
17 convincing evidence, that the adjustments are
18 unreasonable; or if the taxpayer and the Director
19 agree in writing to the application or use of an
20 alternative method of apportionment under Section
21 304(f);

22 Nothing in this subsection shall preclude the
23 Director from making any other adjustment
24 otherwise allowed under Section 404 of this Act for
25 any tax year beginning after the effective date of
26 this amendment provided such adjustment is made

1 pursuant to regulation adopted by the Department
2 and such regulations provide methods and standards
3 by which the Department will utilize its authority
4 under Section 404 of this Act;

5 and by deducting from the total so obtained the sum of the
6 following amounts:

7 (H) An amount equal to all amounts included in such
8 total pursuant to the provisions of Sections 402(a),
9 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
10 Internal Revenue Code or included in such total as
11 distributions under the provisions of any retirement
12 or disability plan for employees of any governmental
13 agency or unit, or retirement payments to retired
14 partners, which payments are excluded in computing net
15 earnings from self employment by Section 1402 of the
16 Internal Revenue Code and regulations adopted pursuant
17 thereto;

18 (I) The valuation limitation amount;

19 (J) An amount equal to the amount of any tax
20 imposed by this Act which was refunded to the taxpayer
21 and included in such total for the taxable year;

22 (K) An amount equal to all amounts included in
23 taxable income as modified by subparagraphs (A), (B),
24 (C), (D), (E), (F) and (G) which are exempt from
25 taxation by this State either by reason of its statutes
26 or Constitution or by reason of the Constitution,

1 treaties or statutes of the United States; provided
2 that, in the case of any statute of this State that
3 exempts income derived from bonds or other obligations
4 from the tax imposed under this Act, the amount
5 exempted shall be the interest net of bond premium
6 amortization;

7 (L) With the exception of any amounts subtracted
8 under subparagraph (K), an amount equal to the sum of
9 all amounts disallowed as deductions by (i) Sections
10 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
11 as now or hereafter amended, and all amounts of
12 expenses allocable to interest and disallowed as
13 deductions by Section 265(1) of the Internal Revenue
14 Code of 1954, as now or hereafter amended; and (ii) for
15 taxable years ending on or after August 13, 1999,
16 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
17 the Internal Revenue Code; the provisions of this
18 subparagraph are exempt from the provisions of Section
19 250;

20 (M) An amount equal to those dividends included in
21 such total which were paid by a corporation which
22 conducts business operations in an Enterprise Zone or
23 zones created under the Illinois Enterprise Zone Act or
24 a River Edge Redevelopment Zone or zones created under
25 the River Edge Redevelopment Zone Act and conducts
26 substantially all of its operations in an Enterprise

1 Zone or Zones or a River Edge Redevelopment Zone or
2 zones. This subparagraph (M) is exempt from the
3 provisions of Section 250;

4 (N) An amount equal to any contribution made to a
5 job training project established pursuant to the Tax
6 Increment Allocation Redevelopment Act;

7 (O) An amount equal to those dividends included in
8 such total that were paid by a corporation that
9 conducts business operations in a federally designated
10 Foreign Trade Zone or Sub-Zone and that is designated a
11 High Impact Business located in Illinois; provided
12 that dividends eligible for the deduction provided in
13 subparagraph (M) of paragraph (2) of this subsection
14 shall not be eligible for the deduction provided under
15 this subparagraph (O);

16 (P) An amount equal to the amount of the deduction
17 used to compute the federal income tax credit for
18 restoration of substantial amounts held under claim of
19 right for the taxable year pursuant to Section 1341 of
20 the Internal Revenue Code of 1986;

21 (Q) For taxable year 1999 and thereafter, an amount
22 equal to the amount of any (i) distributions, to the
23 extent includible in gross income for federal income
24 tax purposes, made to the taxpayer because of his or
25 her status as a victim of persecution for racial or
26 religious reasons by Nazi Germany or any other Axis

1 regime or as an heir of the victim and (ii) items of
2 income, to the extent includible in gross income for
3 federal income tax purposes, attributable to, derived
4 from or in any way related to assets stolen from,
5 hidden from, or otherwise lost to a victim of
6 persecution for racial or religious reasons by Nazi
7 Germany or any other Axis regime immediately prior to,
8 during, and immediately after World War II, including,
9 but not limited to, interest on the proceeds receivable
10 as insurance under policies issued to a victim of
11 persecution for racial or religious reasons by Nazi
12 Germany or any other Axis regime by European insurance
13 companies immediately prior to and during World War II;
14 provided, however, this subtraction from federal
15 adjusted gross income does not apply to assets acquired
16 with such assets or with the proceeds from the sale of
17 such assets; provided, further, this paragraph shall
18 only apply to a taxpayer who was the first recipient of
19 such assets after their recovery and who is a victim of
20 persecution for racial or religious reasons by Nazi
21 Germany or any other Axis regime or as an heir of the
22 victim. The amount of and the eligibility for any
23 public assistance, benefit, or similar entitlement is
24 not affected by the inclusion of items (i) and (ii) of
25 this paragraph in gross income for federal income tax
26 purposes. This paragraph is exempt from the provisions

1 of Section 250;

2 (R) For taxable years 2001 and thereafter, for the
3 taxable year in which the bonus depreciation deduction
4 is taken on the taxpayer's federal income tax return
5 under subsection (k) of Section 168 of the Internal
6 Revenue Code and for each applicable taxable year
7 thereafter, an amount equal to "x", where:

8 (1) "y" equals the amount of the depreciation
9 deduction taken for the taxable year on the
10 taxpayer's federal income tax return on property
11 for which the bonus depreciation deduction was
12 taken in any year under subsection (k) of Section
13 168 of the Internal Revenue Code, but not including
14 the bonus depreciation deduction;

15 (2) for taxable years ending on or before
16 December 31, 2005, "x" equals "y" multiplied by 30
17 and then divided by 70 (or "y" multiplied by
18 0.429); and

19 (3) for taxable years ending after December
20 31, 2005:

21 (i) for property on which a bonus
22 depreciation deduction of 30% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 30 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (ii) for property on which a bonus

1 depreciation deduction of 50% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 1.0.

4 The aggregate amount deducted under this
5 subparagraph in all taxable years for any one piece of
6 property may not exceed the amount of the bonus
7 depreciation deduction taken on that property on the
8 taxpayer's federal income tax return under subsection
9 (k) of Section 168 of the Internal Revenue Code. This
10 subparagraph (R) is exempt from the provisions of
11 Section 250;

12 (S) If the taxpayer sells, transfers, abandons, or
13 otherwise disposes of property for which the taxpayer
14 was required in any taxable year to make an addition
15 modification under subparagraph (G-10), then an amount
16 equal to that addition modification.

17 If the taxpayer continues to own property through
18 the last day of the last tax year for which the
19 taxpayer may claim a depreciation deduction for
20 federal income tax purposes and for which the taxpayer
21 was required in any taxable year to make an addition
22 modification under subparagraph (G-10), then an amount
23 equal to that addition modification.

24 The taxpayer is allowed to take the deduction under
25 this subparagraph only once with respect to any one
26 piece of property.

1 This subparagraph (S) is exempt from the
2 provisions of Section 250;

3 (T) The amount of (i) any interest income (net of
4 the deductions allocable thereto) taken into account
5 for the taxable year with respect to a transaction with
6 a taxpayer that is required to make an addition
7 modification with respect to such transaction under
8 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
9 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
10 the amount of such addition modification and (ii) any
11 income from intangible property (net of the deductions
12 allocable thereto) taken into account for the taxable
13 year with respect to a transaction with a taxpayer that
14 is required to make an addition modification with
15 respect to such transaction under Section
16 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
17 203(d)(2)(D-8), but not to exceed the amount of such
18 addition modification;

19 (U) An amount equal to the interest income taken
20 into account for the taxable year (net of the
21 deductions allocable thereto) with respect to
22 transactions with a foreign person who would be a
23 member of the taxpayer's unitary business group but for
24 the fact the foreign person's business activity
25 outside the United States is 80% or more of that
26 person's total business activity, but not to exceed the

1 addition modification required to be made for the same
2 taxable year under Section 203(c)(2)(G-12) for
3 interest paid, accrued, or incurred, directly or
4 indirectly, to the same foreign person; ~~and~~

5 (V) An amount equal to the income from intangible
6 property taken into account for the taxable year (net
7 of the deductions allocable thereto) with respect to
8 transactions with a foreign person who would be a
9 member of the taxpayer's unitary business group but for
10 the fact that the foreign person's business activity
11 outside the United States is 80% or more of that
12 person's total business activity, but not to exceed the
13 addition modification required to be made for the same
14 taxable year under Section 203(c)(2)(G-13) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same foreign
17 person; and -

18 (W) For taxable years ending on or after December
19 31, 2007, an amount equal to the earnings on a special
20 needs trust, to the extent included in adjusted gross
21 income. As used in this subparagraph, "special needs
22 trust" means a trust that is not liable to pay or
23 reimburse the State or any public agency for financial
24 aid or services to the individual, as provided in
25 Section 15.1 of the Trusts and Trustees Act.

26 (3) Limitation. The amount of any modification

1 otherwise required under this subsection shall, under
2 regulations prescribed by the Department, be adjusted by
3 any amounts included therein which were properly paid,
4 credited, or required to be distributed, or permanently set
5 aside for charitable purposes pursuant to Internal Revenue
6 Code Section 642(c) during the taxable year.

7 (d) Partnerships.

8 (1) In general. In the case of a partnership, base
9 income means an amount equal to the taxpayer's taxable
10 income for the taxable year as modified by paragraph (2).

11 (2) Modifications. The taxable income referred to in
12 paragraph (1) shall be modified by adding thereto the sum
13 of the following amounts:

14 (A) An amount equal to all amounts paid or accrued
15 to the taxpayer as interest or dividends during the
16 taxable year to the extent excluded from gross income
17 in the computation of taxable income;

18 (B) An amount equal to the amount of tax imposed by
19 this Act to the extent deducted from gross income for
20 the taxable year;

21 (C) The amount of deductions allowed to the
22 partnership pursuant to Section 707 (c) of the Internal
23 Revenue Code in calculating its taxable income;

24 (D) An amount equal to the amount of the capital
25 gain deduction allowable under the Internal Revenue

1 Code, to the extent deducted from gross income in the
2 computation of taxable income;

3 (D-5) For taxable years 2001 and thereafter, an
4 amount equal to the bonus depreciation deduction taken
5 on the taxpayer's federal income tax return for the
6 taxable year under subsection (k) of Section 168 of the
7 Internal Revenue Code;

8 (D-6) If the taxpayer sells, transfers, abandons,
9 or otherwise disposes of property for which the
10 taxpayer was required in any taxable year to make an
11 addition modification under subparagraph (D-5), then
12 an amount equal to the aggregate amount of the
13 deductions taken in all taxable years under
14 subparagraph (O) with respect to that property.

15 If the taxpayer continues to own property through
16 the last day of the last tax year for which the
17 taxpayer may claim a depreciation deduction for
18 federal income tax purposes and for which the taxpayer
19 was allowed in any taxable year to make a subtraction
20 modification under subparagraph (O), then an amount
21 equal to that subtraction modification.

22 The taxpayer is required to make the addition
23 modification under this subparagraph only once with
24 respect to any one piece of property;

25 (D-7) For taxable years ending on or after December
26 31, 2004, an amount equal to the amount otherwise

1 allowed as a deduction in computing base income for
2 interest paid, accrued, or incurred, directly or
3 indirectly, to a foreign person who would be a member
4 of the same unitary business group but for the fact the
5 foreign person's business activity outside the United
6 States is 80% or more of the foreign person's total
7 business activity. The addition modification required
8 by this subparagraph shall be reduced to the extent
9 that dividends were included in base income of the
10 unitary group for the same taxable year and received by
11 the taxpayer or by a member of the taxpayer's unitary
12 business group (including amounts included in gross
13 income pursuant to Sections 951 through 964 of the
14 Internal Revenue Code and amounts included in gross
15 income under Section 78 of the Internal Revenue Code)
16 with respect to the stock of the same person to whom
17 the interest was paid, accrued, or incurred.

18 This paragraph shall not apply to the following:

19 (i) an item of interest paid, accrued, or
20 incurred, directly or indirectly, to a foreign
21 person who is subject in a foreign country or
22 state, other than a state which requires mandatory
23 unitary reporting, to a tax on or measured by net
24 income with respect to such interest; or

25 (ii) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a foreign

1 person if the taxpayer can establish, based on a
2 preponderance of the evidence, both of the
3 following:

4 (a) the foreign person, during the same
5 taxable year, paid, accrued, or incurred, the
6 interest to a person that is not a related
7 member, and

8 (b) the transaction giving rise to the
9 interest expense between the taxpayer and the
10 foreign person did not have as a principal
11 purpose the avoidance of Illinois income tax,
12 and is paid pursuant to a contract or agreement
13 that reflects an arm's-length interest rate
14 and terms; or

15 (iii) the taxpayer can establish, based on
16 clear and convincing evidence, that the interest
17 paid, accrued, or incurred relates to a contract or
18 agreement entered into at arm's-length rates and
19 terms and the principal purpose for the payment is
20 not federal or Illinois tax avoidance; or

21 (iv) an item of interest paid, accrued, or
22 incurred, directly or indirectly, to a foreign
23 person if the taxpayer establishes by clear and
24 convincing evidence that the adjustments are
25 unreasonable; or if the taxpayer and the Director
26 agree in writing to the application or use of an

1 alternative method of apportionment under Section
2 304(f).

3 Nothing in this subsection shall preclude the
4 Director from making any other adjustment
5 otherwise allowed under Section 404 of this Act for
6 any tax year beginning after the effective date of
7 this amendment provided such adjustment is made
8 pursuant to regulation adopted by the Department
9 and such regulations provide methods and standards
10 by which the Department will utilize its authority
11 under Section 404 of this Act; and

12 (D-8) For taxable years ending on or after December
13 31, 2004, an amount equal to the amount of intangible
14 expenses and costs otherwise allowed as a deduction in
15 computing base income, and that were paid, accrued, or
16 incurred, directly or indirectly, to a foreign person
17 who would be a member of the same unitary business
18 group but for the fact that the foreign person's
19 business activity outside the United States is 80% or
20 more of that person's total business activity. The
21 addition modification required by this subparagraph
22 shall be reduced to the extent that dividends were
23 included in base income of the unitary group for the
24 same taxable year and received by the taxpayer or by a
25 member of the taxpayer's unitary business group
26 (including amounts included in gross income pursuant

1 to Sections 951 through 964 of the Internal Revenue
2 Code and amounts included in gross income under Section
3 78 of the Internal Revenue Code) with respect to the
4 stock of the same person to whom the intangible
5 expenses and costs were directly or indirectly paid,
6 incurred or accrued. The preceding sentence shall not
7 apply to the extent that the same dividends caused a
8 reduction to the addition modification required under
9 Section 203(d)(2)(D-7) of this Act. As used in this
10 subparagraph, the term "intangible expenses and costs"
11 includes (1) expenses, losses, and costs for, or
12 related to, the direct or indirect acquisition, use,
13 maintenance or management, ownership, sale, exchange,
14 or any other disposition of intangible property; (2)
15 losses incurred, directly or indirectly, from
16 factoring transactions or discounting transactions;
17 (3) royalty, patent, technical, and copyright fees;
18 (4) licensing fees; and (5) other similar expenses and
19 costs. For purposes of this subparagraph, "intangible
20 property" includes patents, patent applications, trade
21 names, trademarks, service marks, copyrights, mask
22 works, trade secrets, and similar types of intangible
23 assets;

24 This paragraph shall not apply to the following:

25 (i) any item of intangible expenses or costs
26 paid, accrued, or incurred, directly or

1 indirectly, from a transaction with a foreign
2 person who is subject in a foreign country or
3 state, other than a state which requires mandatory
4 unitary reporting, to a tax on or measured by net
5 income with respect to such item; or

6 (ii) any item of intangible expense or cost
7 paid, accrued, or incurred, directly or
8 indirectly, if the taxpayer can establish, based
9 on a preponderance of the evidence, both of the
10 following:

11 (a) the foreign person during the same
12 taxable year paid, accrued, or incurred, the
13 intangible expense or cost to a person that is
14 not a related member, and

15 (b) the transaction giving rise to the
16 intangible expense or cost between the
17 taxpayer and the foreign person did not have as
18 a principal purpose the avoidance of Illinois
19 income tax, and is paid pursuant to a contract
20 or agreement that reflects arm's-length terms;
21 or

22 (iii) any item of intangible expense or cost
23 paid, accrued, or incurred, directly or
24 indirectly, from a transaction with a foreign
25 person if the taxpayer establishes by clear and
26 convincing evidence, that the adjustments are

1 unreasonable; or if the taxpayer and the Director
2 agree in writing to the application or use of an
3 alternative method of apportionment under Section
4 304(f);

5 Nothing in this subsection shall preclude the
6 Director from making any other adjustment
7 otherwise allowed under Section 404 of this Act for
8 any tax year beginning after the effective date of
9 this amendment provided such adjustment is made
10 pursuant to regulation adopted by the Department
11 and such regulations provide methods and standards
12 by which the Department will utilize its authority
13 under Section 404 of this Act;

14 and by deducting from the total so obtained the following
15 amounts:

16 (E) The valuation limitation amount;

17 (F) An amount equal to the amount of any tax
18 imposed by this Act which was refunded to the taxpayer
19 and included in such total for the taxable year;

20 (G) An amount equal to all amounts included in
21 taxable income as modified by subparagraphs (A), (B),
22 (C) and (D) which are exempt from taxation by this
23 State either by reason of its statutes or Constitution
24 or by reason of the Constitution, treaties or statutes
25 of the United States; provided that, in the case of any
26 statute of this State that exempts income derived from

1 bonds or other obligations from the tax imposed under
2 this Act, the amount exempted shall be the interest net
3 of bond premium amortization;

4 (H) Any income of the partnership which
5 constitutes personal service income as defined in
6 Section 1348 (b) (1) of the Internal Revenue Code (as
7 in effect December 31, 1981) or a reasonable allowance
8 for compensation paid or accrued for services rendered
9 by partners to the partnership, whichever is greater;

10 (I) An amount equal to all amounts of income
11 distributable to an entity subject to the Personal
12 Property Tax Replacement Income Tax imposed by
13 subsections (c) and (d) of Section 201 of this Act
14 including amounts distributable to organizations
15 exempt from federal income tax by reason of Section
16 501(a) of the Internal Revenue Code;

17 (J) With the exception of any amounts subtracted
18 under subparagraph (G), an amount equal to the sum of
19 all amounts disallowed as deductions by (i) Sections
20 171(a) (2), and 265(2) of the Internal Revenue Code of
21 1954, as now or hereafter amended, and all amounts of
22 expenses allocable to interest and disallowed as
23 deductions by Section 265(1) of the Internal Revenue
24 Code, as now or hereafter amended; and (ii) for taxable
25 years ending on or after August 13, 1999, Sections
26 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the

1 Internal Revenue Code; the provisions of this
2 subparagraph are exempt from the provisions of Section
3 250;

4 (K) An amount equal to those dividends included in
5 such total which were paid by a corporation which
6 conducts business operations in an Enterprise Zone or
7 zones created under the Illinois Enterprise Zone Act,
8 enacted by the 82nd General Assembly, or a River Edge
9 Redevelopment Zone or zones created under the River
10 Edge Redevelopment Zone Act and conducts substantially
11 all of its operations in an Enterprise Zone or Zones or
12 from a River Edge Redevelopment Zone or zones. This
13 subparagraph (K) is exempt from the provisions of
14 Section 250;

15 (L) An amount equal to any contribution made to a
16 job training project established pursuant to the Real
17 Property Tax Increment Allocation Redevelopment Act;

18 (M) An amount equal to those dividends included in
19 such total that were paid by a corporation that
20 conducts business operations in a federally designated
21 Foreign Trade Zone or Sub-Zone and that is designated a
22 High Impact Business located in Illinois; provided
23 that dividends eligible for the deduction provided in
24 subparagraph (K) of paragraph (2) of this subsection
25 shall not be eligible for the deduction provided under
26 this subparagraph (M);

1 (N) An amount equal to the amount of the deduction
2 used to compute the federal income tax credit for
3 restoration of substantial amounts held under claim of
4 right for the taxable year pursuant to Section 1341 of
5 the Internal Revenue Code of 1986;

6 (O) For taxable years 2001 and thereafter, for the
7 taxable year in which the bonus depreciation deduction
8 is taken on the taxpayer's federal income tax return
9 under subsection (k) of Section 168 of the Internal
10 Revenue Code and for each applicable taxable year
11 thereafter, an amount equal to "x", where:

12 (1) "y" equals the amount of the depreciation
13 deduction taken for the taxable year on the
14 taxpayer's federal income tax return on property
15 for which the bonus depreciation deduction was
16 taken in any year under subsection (k) of Section
17 168 of the Internal Revenue Code, but not including
18 the bonus depreciation deduction;

19 (2) for taxable years ending on or before
20 December 31, 2005, "x" equals "y" multiplied by 30
21 and then divided by 70 (or "y" multiplied by
22 0.429); and

23 (3) for taxable years ending after December
24 31, 2005:

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (ii) for property on which a bonus
5 depreciation deduction of 50% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 1.0.

8 The aggregate amount deducted under this
9 subparagraph in all taxable years for any one piece of
10 property may not exceed the amount of the bonus
11 depreciation deduction taken on that property on the
12 taxpayer's federal income tax return under subsection
13 (k) of Section 168 of the Internal Revenue Code. This
14 subparagraph (O) is exempt from the provisions of
15 Section 250;

16 (P) If the taxpayer sells, transfers, abandons, or
17 otherwise disposes of property for which the taxpayer
18 was required in any taxable year to make an addition
19 modification under subparagraph (D-5), then an amount
20 equal to that addition modification.

21 If the taxpayer continues to own property through
22 the last day of the last tax year for which the
23 taxpayer may claim a depreciation deduction for
24 federal income tax purposes and for which the taxpayer
25 was required in any taxable year to make an addition
26 modification under subparagraph (D-5), then an amount

1 equal to that addition modification.

2 The taxpayer is allowed to take the deduction under
3 this subparagraph only once with respect to any one
4 piece of property.

5 This subparagraph (P) is exempt from the
6 provisions of Section 250;

7 (Q) The amount of (i) any interest income (net of
8 the deductions allocable thereto) taken into account
9 for the taxable year with respect to a transaction with
10 a taxpayer that is required to make an addition
11 modification with respect to such transaction under
12 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
13 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
14 the amount of such addition modification and (ii) any
15 income from intangible property (net of the deductions
16 allocable thereto) taken into account for the taxable
17 year with respect to a transaction with a taxpayer that
18 is required to make an addition modification with
19 respect to such transaction under Section
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
21 203(d)(2)(D-8), but not to exceed the amount of such
22 addition modification;

23 (R) An amount equal to the interest income taken
24 into account for the taxable year (net of the
25 deductions allocable thereto) with respect to
26 transactions with a foreign person who would be a

1 member of the taxpayer's unitary business group but for
2 the fact that the foreign person's business activity
3 outside the United States is 80% or more of that
4 person's total business activity, but not to exceed the
5 addition modification required to be made for the same
6 taxable year under Section 203(d) (2) (D-7) for interest
7 paid, accrued, or incurred, directly or indirectly, to
8 the same foreign person; ~~and~~

9 (S) An amount equal to the income from intangible
10 property taken into account for the taxable year (net
11 of the deductions allocable thereto) with respect to
12 transactions with a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity, but not to exceed the
17 addition modification required to be made for the same
18 taxable year under Section 203(d) (2) (D-8) for
19 intangible expenses and costs paid, accrued, or
20 incurred, directly or indirectly, to the same foreign
21 person; and -

22 (T) For taxable years ending on or after December
23 31, 2007, an amount equal to the earnings on a special
24 needs trust, to the extent included in adjusted gross
25 income. As used in this subparagraph, "special needs
26 trust" means a trust that is not liable to pay or

1 reimburse the State or any public agency for financial
2 aid or services to the individual, as provided in
3 Section 15.1 of the Trusts and Trustees Act.

4 (e) Gross income; adjusted gross income; taxable income.

5 (1) In general. Subject to the provisions of paragraph
6 (2) and subsection (b) (3), for purposes of this Section
7 and Section 803(e), a taxpayer's gross income, adjusted
8 gross income, or taxable income for the taxable year shall
9 mean the amount of gross income, adjusted gross income or
10 taxable income properly reportable for federal income tax
11 purposes for the taxable year under the provisions of the
12 Internal Revenue Code. Taxable income may be less than
13 zero. However, for taxable years ending on or after
14 December 31, 1986, net operating loss carryforwards from
15 taxable years ending prior to December 31, 1986, may not
16 exceed the sum of federal taxable income for the taxable
17 year before net operating loss deduction, plus the excess
18 of addition modifications over subtraction modifications
19 for the taxable year. For taxable years ending prior to
20 December 31, 1986, taxable income may never be an amount in
21 excess of the net operating loss for the taxable year as
22 defined in subsections (c) and (d) of Section 172 of the
23 Internal Revenue Code, provided that when taxable income of
24 a corporation (other than a Subchapter S corporation),
25 trust, or estate is less than zero and addition

1 modifications, other than those provided by subparagraph
2 (E) of paragraph (2) of subsection (b) for corporations or
3 subparagraph (E) of paragraph (2) of subsection (c) for
4 trusts and estates, exceed subtraction modifications, an
5 addition modification must be made under those
6 subparagraphs for any other taxable year to which the
7 taxable income less than zero (net operating loss) is
8 applied under Section 172 of the Internal Revenue Code or
9 under subparagraph (E) of paragraph (2) of this subsection
10 (e) applied in conjunction with Section 172 of the Internal
11 Revenue Code.

12 (2) Special rule. For purposes of paragraph (1) of this
13 subsection, the taxable income properly reportable for
14 federal income tax purposes shall mean:

15 (A) Certain life insurance companies. In the case
16 of a life insurance company subject to the tax imposed
17 by Section 801 of the Internal Revenue Code, life
18 insurance company taxable income, plus the amount of
19 distribution from pre-1984 policyholder surplus
20 accounts as calculated under Section 815a of the
21 Internal Revenue Code;

22 (B) Certain other insurance companies. In the case
23 of mutual insurance companies subject to the tax
24 imposed by Section 831 of the Internal Revenue Code,
25 insurance company taxable income;

26 (C) Regulated investment companies. In the case of

1 a regulated investment company subject to the tax
2 imposed by Section 852 of the Internal Revenue Code,
3 investment company taxable income;

4 (D) Real estate investment trusts. In the case of a
5 real estate investment trust subject to the tax imposed
6 by Section 857 of the Internal Revenue Code, real
7 estate investment trust taxable income;

8 (E) Consolidated corporations. In the case of a
9 corporation which is a member of an affiliated group of
10 corporations filing a consolidated income tax return
11 for the taxable year for federal income tax purposes,
12 taxable income determined as if such corporation had
13 filed a separate return for federal income tax purposes
14 for the taxable year and each preceding taxable year
15 for which it was a member of an affiliated group. For
16 purposes of this subparagraph, the taxpayer's separate
17 taxable income shall be determined as if the election
18 provided by Section 243(b) (2) of the Internal Revenue
19 Code had been in effect for all such years;

20 (F) Cooperatives. In the case of a cooperative
21 corporation or association, the taxable income of such
22 organization determined in accordance with the
23 provisions of Section 1381 through 1388 of the Internal
24 Revenue Code;

25 (G) Subchapter S corporations. In the case of: (i)
26 a Subchapter S corporation for which there is in effect

1 an election for the taxable year under Section 1362 of
2 the Internal Revenue Code, the taxable income of such
3 corporation determined in accordance with Section
4 1363(b) of the Internal Revenue Code, except that
5 taxable income shall take into account those items
6 which are required by Section 1363(b)(1) of the
7 Internal Revenue Code to be separately stated; and (ii)
8 a Subchapter S corporation for which there is in effect
9 a federal election to opt out of the provisions of the
10 Subchapter S Revision Act of 1982 and have applied
11 instead the prior federal Subchapter S rules as in
12 effect on July 1, 1982, the taxable income of such
13 corporation determined in accordance with the federal
14 Subchapter S rules as in effect on July 1, 1982; and

15 (H) Partnerships. In the case of a partnership,
16 taxable income determined in accordance with Section
17 703 of the Internal Revenue Code, except that taxable
18 income shall take into account those items which are
19 required by Section 703(a)(1) to be separately stated
20 but which would be taken into account by an individual
21 in calculating his taxable income.

22 (3) Recapture of business expenses on disposition of
23 asset or business. Notwithstanding any other law to the
24 contrary, if in prior years income from an asset or
25 business has been classified as business income and in a
26 later year is demonstrated to be non-business income, then

1 all expenses, without limitation, deducted in such later
2 year and in the 2 immediately preceding taxable years
3 related to that asset or business that generated the
4 non-business income shall be added back and recaptured as
5 business income in the year of the disposition of the asset
6 or business. Such amount shall be apportioned to Illinois
7 using the greater of the apportionment fraction computed
8 for the business under Section 304 of this Act for the
9 taxable year or the average of the apportionment fractions
10 computed for the business under Section 304 of this Act for
11 the taxable year and for the 2 immediately preceding
12 taxable years.

13 (f) Valuation limitation amount.

14 (1) In general. The valuation limitation amount
15 referred to in subsections (a) (2) (G), (c) (2) (I) and
16 (d) (2) (E) is an amount equal to:

17 (A) The sum of the pre-August 1, 1969 appreciation
18 amounts (to the extent consisting of gain reportable
19 under the provisions of Section 1245 or 1250 of the
20 Internal Revenue Code) for all property in respect of
21 which such gain was reported for the taxable year; plus

22 (B) The lesser of (i) the sum of the pre-August 1,
23 1969 appreciation amounts (to the extent consisting of
24 capital gain) for all property in respect of which such
25 gain was reported for federal income tax purposes for
26 the taxable year, or (ii) the net capital gain for the

1 taxable year, reduced in either case by any amount of
2 such gain included in the amount determined under
3 subsection (a) (2) (F) or (c) (2) (H).

4 (2) Pre-August 1, 1969 appreciation amount.

5 (A) If the fair market value of property referred
6 to in paragraph (1) was readily ascertainable on August
7 1, 1969, the pre-August 1, 1969 appreciation amount for
8 such property is the lesser of (i) the excess of such
9 fair market value over the taxpayer's basis (for
10 determining gain) for such property on that date
11 (determined under the Internal Revenue Code as in
12 effect on that date), or (ii) the total gain realized
13 and reportable for federal income tax purposes in
14 respect of the sale, exchange or other disposition of
15 such property.

16 (B) If the fair market value of property referred
17 to in paragraph (1) was not readily ascertainable on
18 August 1, 1969, the pre-August 1, 1969 appreciation
19 amount for such property is that amount which bears the
20 same ratio to the total gain reported in respect of the
21 property for federal income tax purposes for the
22 taxable year, as the number of full calendar months in
23 that part of the taxpayer's holding period for the
24 property ending July 31, 1969 bears to the number of
25 full calendar months in the taxpayer's entire holding
26 period for the property.

1 (C) The Department shall prescribe such
2 regulations as may be necessary to carry out the
3 purposes of this paragraph.

4 (g) Double deductions. Unless specifically provided
5 otherwise, nothing in this Section shall permit the same item
6 to be deducted more than once.

7 (h) Legislative intention. Except as expressly provided by
8 this Section there shall be no modifications or limitations on
9 the amounts of income, gain, loss or deduction taken into
10 account in determining gross income, adjusted gross income or
11 taxable income for federal income tax purposes for the taxable
12 year, or in the amount of such items entering into the
13 computation of base income and net income under this Act for
14 such taxable year, whether in respect of property values as of
15 August 1, 1969 or otherwise.

16 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
17 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
18 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.